

Deposition Transcript of Josh Griffith

1 (Witness Sworn)

2 MR. PIPER: This is the deposition of Josh Griffith

3 taken pursuant to notice and for all purposes under the

4 Federal Rules of Civil Procedure.

5 JOSH GRIFFITH,

6 called as a witness by the Plaintiff herein, having been first

7 duly sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. PIPER:

10 Q My name is Bill Piper, I represent Dillon Burnett. I'll

11 be asking you some questions here this afternoon.

12 A Okay.

13 Q If you don't -- I'm sure your attorney's explained this,

14 but if you don't understand a question I ask, make sure

15 you stop me and ask me to restate the question --

16 A Yes.

17 Q (Continuing) -- otherwise your answer will be recorded

18 as if you did understand the question.

19 Try to remember to allow me to finish my question

20 before answering so we don't talk over each other. The

21 court reporter has to record everything that both of us

22 say.

23 And make sure you give a verbal response to any

24 question I ask. A nod of the head as you were just

25 doing or a guttural response like uh-huh will convey

1 Q Okay. And what was his claim, generally?

2 A He -- His claim was that he was denied medical attention.

3 Q Who was the inmate?

4 A Ronald McKie.

5 Q Do you know which court that case was filed in?

6 A I don't.

7 Q Do you recall who his attorney was?

8 A His name was Chris Trainor.

9 Q And were you a named defendant in that case?

10 A Yes.

11 Q Do you recall if there were other named defendants?

12 A There were.

13 Q All right. Do you remember who they were?

14 A I don't remember all of them. I can name a couple of

15 them.

16 Q Do you remember some of them?

17 A Yes.

18 Q Who were they?

19 A Lieutenant Manny Delarosa, Correctional Officer Shawn

20 Ampey, Correctional Officer Allen Boyer. That's all I

21 know for sure.

22 Q What's the status of that case?

23 A I am not positive.

24 MS. HALL: It's closed. The matter's closed.

25

4

1 something to me that I'll probably understand

2 presently --

3 A Understood.

4 Q (Continuing) -- but when we read the transcript later it

5 may not be clear.

6 If you need to take a break for whatever reason, go

7 to the restroom, make a phone call, whatever, I won't be

8 able to read your mind, so let me know.

9 A Okay.

10 Q I want to make sure you're comfortable while testifying,

11 okay?

12 A Yep.

13 Q Have you ever given a deposition before?

14 A Yes.

15 Q On how many occasions?

16 A One other occasion.

17 Q How long ago was that?

18 A I believe it was almost two years ago.

19 Q All right. What did that relate to?

20 A That was an attorney that filed a lawsuit against the

21 Sheriff's Department.

22 Q Did it have something to do the operation of the jail

23 here or was it some other issue?

24 A It was an inmate's claim, he was housed here in jail,

25 yes.

6

1 BY MR. PIPER:

2 Q Do you know if it was settled or --

3 A I don't.

4 Q (Continuing) -- it went to trial, or what happened?

5 A I do not recall.

6 Q What -- Is it M-C-K-E-E is the name of the --

7 A I believe it was M-C-K-I-E.

8 Q And do you recall who the first defendant was named in

9 the case?

10 A I don't.

11 Q Was it Van Buren County, or you, or --

12 A I just know I was listed as one of the people named, I

13 don't know the order sequence that it was listed.

14 Q Okay. Do you recall what injuries or whatever the

15 plaintiff was claiming?

16 A I believe he claimed he had a laceration to his face.

17 Q Was he claiming it got infected or whatever?

18 A I don't recall.

19 Q All right. What's your date of birth?

20 A 06-01-1986.

21 Q Tell me your educational background, beginning from and

22 including the high school you attended.

23 A Galesburg Augusta high school and some college credits

24 at Kalamazoo Valley Community College.

25 Q I assume you graduated from Galesburg Augusta High

1 School?
 2 A **Yes.**
 3 Q What year did you graduate?
 4 A **2005.**
 5 Q And did you attend a police academy anywhere?
 6 A **Nope, I attended a corrections academy.**
 7 Q Corrections academy.
 8 A **Yes.**
 9 Q What corrections academy?
 10 A **Through Kalamazoo Valley.**
 11 Q So they have different police and corrections academies?
 12 A **Yes.**
 13 Q When did you attend the corrections academy?
 14 A **The fall of 2008.**
 15 Q And is there some sort of a degree or certificate you
 16 got as a result of attending the corrections academy?
 17 A **There is a certificate and it's a State requirement now,**
 18 **I believe.**
 19 Q So are you licensed by the State as a corrections
 20 officer?
 21 A **I am certified --**
 22 Q Certified.
 23 A **(Continuing) -- as a correction officer, yes, at the**
 24 **county level.**
 25 Q Have you ever gone to a law enforcement academy?

1 A **No.**
 2 Q This question might seem kind of ironic, but do you have
 3 any hearing problems?
 4 A **No.**
 5 Q How old were you when you graduated from the corrections
 6 academy?
 7 A **Would have been 22?**
 8 Q Did you work in -- for a law enforcement agency at any
 9 time prior to graduating from the corrections academy?
 10 A **No.**
 11 Q What was the first job you got after you graduate from
 12 the corrections academy?
 13 A **I was already employed as a loss prevention officer with**
 14 **Burlington Coat Factory, and then I was hired by Van**
 15 **Buren County Sheriff's Department.**
 16 Q Had you worked in any other job in loss prevention?
 17 A **No.**
 18 Q How about as a security guard?
 19 A **No.**
 20 Q What was your hire date, if you recall, at the Van Buren
 21 County Sheriff's?
 22 A **December 3rd, 2008.**
 23 Q Have you worked anywhere else as a correction officer
 24 other than Van Buren County Sheriff's Department?
 25 A **No.**

8

1 A **No.**
 2 Q Other than the one that you mentioned with Mr. McKie,
 3 have you ever been -- and this case, have you ever been
 4 a named defendant in any lawsuit?
 5 A **No. The one with Mr. McKie and this one are the only**
 6 **two.**
 7 Q Have you ever been a plaintiff in a lawsuit?
 8 A **No.**
 9 Q Are you married?
 10 A **Yes.**
 11 Q Has your wife ever worked for the County of Van Buren?
 12 A **No.**
 13 Q How tall are you?
 14 A **Five foot eleven inches.**
 15 Q And as of January 12 of 2018 how much did you weigh?
 16 A **At that time?**
 17 Q Yes.
 18 A **Approximately 260 pounds.**
 19 Q Are you approximately that now?
 20 A **I believe I'm heavier.**
 21 Q Heavier. Did you play any sports in high school?
 22 A **Yes.**
 23 Q What sports did you play?
 24 A **Football.**
 25 Q Anything else but football?

10

1 Q What positions have you held over the years for the Van
 2 Buren County Sheriff's Department?
 3 A **Correction Officer and currently Correction Sergeant.**
 4 Q When did you become a Correction Sergeant?
 5 A **May of 2011.**
 6 Q And since May of 2011 who have you reported to?
 7 A **Lieutenant Charity Cummings, Lieutenant Chad Hunt,**
 8 **Lieutenant Manual Delarosa is the current lieutenant.**
 9 Q On January 12 of 2018 did you supervise anyone?
 10 A **Yes.**
 11 Q Who did you supervise?
 12 A **I believe the people working that day were Officer Paul**
 13 **Tessar, Officer Patrick Quinn. I don't know who else**
 14 **was on duty that day.**
 15 Q When you say officer, they would all be corrections
 16 officers?
 17 A **Correct.**
 18 Q And do you recall what shift that would have been?
 19 A **That would have been the day shift.**
 20 Q So have you ever worked any shift other than the day
 21 shift?
 22 A **Yes.**
 23 Q On January 12 of 2018 you were on the day shift?
 24 A **Correct.**
 25 Q And how many corrections officers would have been on

1 duty on the day shift, approximately?
2 A **Anywhere from four to six.**
3 Q What are your duties generally as a Sergeant --
4 Corrections Sergeant?
5 A **I am responsible to supervise my staff members, the**
6 **officers on my shift, make decisions throughout the**
7 **shift, handle court, movement of inmates, conduct**
8 **disciplinary hearings for inmates. Various duties.**
9 Q Have you ever been disciplined during your career as a
10 corrections officer?
11 A **No.**
12 Q Other than this case involving Mr. Burnett, have you
13 ever had to use force against a jail inmate that
14 resulted in injury?
15 MS. HALL: I'm just going to put an objection to
16 form, but you can answer.
17 BY THE WITNESS:
18 A **Not that I can recall.**
19 BY MR. PIPER:
20 Q Do you recall how Mr. McKie claimed he got his
21 laceration?
22 A **I believe his claim was he fell off of his bunk.**
23 Q Do you recall being disciplined during your career as a
24 corrections officer?
25 A **As far as receiving a disciplinary sanction?**

1 Q Well, formal disciplinary action. I'm sure probably
2 people give you constructive criticism from time to
3 time, which is normal, but any formal discipline?
4 A **No.**
5 Q Do you recall any citizen ever filing a complaint
6 against you --
7 A **No.**
8 Q (Continuing) -- for my reason? Have you ever been
9 accused of lying at any time regarding your employment
10 at the Van Buren County Sheriff's Department that you're
11 aware of?
12 A **No.**
13 Q Before January 12 of 2018 did you know Dillon Burnett?
14 A **No.**
15 Q Did you know anyone who was a family member of Mr.
16 Burnett?
17 A **No.**
18 Q Did you ever have an occasion to oversee him at any time
19 while he was in the Van Buren County jail before January
20 12, 2018?
21 A **No.**
22 Q Did you know anything about him before January 12 of
23 2018?
24 A **No.**
25 Q Did you know anything about his family?

1 A **No.**
2 Q Who would you have reported to on January 12, 2018?
3 A **My direct supervisor would have -- is -- was Lieutenant**
4 **Manny Delarosa.**
5 Q Was anyone else above you in the hierarchy that was
6 actually physically present at the jail at that time?
7 A **Lieutenant Delarosa was on shift that day.**
8 Q But no one else who would have been above you in
9 hierarchy; is that correct?
10 A **They would have been higher than Lieutenant Delarosa,**
11 **whether they were there or not I don't remember.**
12 Q But the only one you remember being actually physically
13 present was Delarosa.
14 A **Correct.**
15 Q How many jail inmates, approximately, would have been
16 present at the time?
17 A **Approximately a hundred thirty, a hundred forty.**
18 Q Is that generally how many there are and you just
19 remember --
20 A **At that time it was. Prior to our addition, that was**
21 **our standard average.**
22 Q So there's an addition at the jail now?
23 A **Correct.**
24 Q Does that house only Van Buren County jail inmates or
25 are there people from other counties?

1 A **We can accept people from other counties, it's at the**
2 **discretion of our jail administrator.**
3 Q On January 12 of 2018 can you describe what weapons or
4 other things you would have on your uniform?
5 A **I don't remember what I had carrying at that time as far**
6 **as --**
7 Q If you don't remember specifically, can you tell me
8 generally what you would carry on your uniform?
9 A **Generally, an officer would carry a taser and/or OC**
10 **spray.**
11 Q How about handcuffs?
12 A **Handcuffs as well.**
13 Q No service revolver?
14 A **No, no firearms.**
15 Q Okay. How about a baton?
16 A **No, no batons.**
17 Q So the only I guess weapons you would have would have
18 been the taser and some sort of spray; is that correct?
19 A **Tasers and OC spray are the only non-lethal weapons we**
20 **would be permitted to carry.**
21 Q What is OC spray?
22 A **Pepper spray.**
23 Q Pepper spray. Do you recall on January 12, 2018 where
24 your first contact with Mr. Burnett would have been?
25 A **In a room that we designated as our intake or booking**

1 area at that time.
 2 Q Can you describe for me what this booking area looks
 3 like?
 4 A It's a big room, approximately 30 yards by -- 30 yards
 5 long by 15 yards wide.
 6 Q Okay. And to come here today I walked through the front
 7 door and then there was a reception area on the right.
 8 Is that the area you're talking about or no?
 9 A No. This room is in the physical jail.
 10 Q Okay. So would this be a place where cars would come in
 11 and then inmates are brought in through that physical
 12 door?
 13 A The inmates would have been brought in at that time from
 14 the east side of the building and then taken into that
 15 room through another series of doors along the way.
 16 Q Okay. Who is present -- Strike that. Who would have
 17 been present in the booking area when you first
 18 encountered Mr. Burnett?
 19 A A booking officer, and I believe at that time I was
 20 acting as the booking officer.
 21 Q Do you recall who brought Mr. Burnett into the booking
 22 area?
 23 A I believe it was Deputy Dan Perkins.
 24 Q When you -- Did you actually see Deputy Perkins there?
 25 A I believe so.

1 A Yes.
 2 Q Okay. And was there any other corrections officers
 3 there in the vicinity?
 4 A I don't recall.
 5 Q Do you recall when Mr. Burnett was handed off to you
 6 what you did with him at that point?
 7 A I don't.
 8 Q Did you have any conversations with him?
 9 A Not that I recall.
 10 Q Did he appear upset in any way?
 11 A Not that I recall.
 12 Q Do you recall anything he was saying at that point?
 13 A Not at that point.
 14 Q What did you do with Mr. Burnett when he was handed off
 15 to you in the booking area?
 16 A I believe I searched him.
 17 Q A pat-down search?
 18 A Yes.
 19 Q Did you do any other type of search at that point?
 20 A No.
 21 Q I assume you didn't find anything on him?
 22 A Nothing that would be considered contraband or dangerous
 23 at that moment.
 24 Q So what did you do after you patted him down, Mr.
 25 Burnett?

1 Q So he would have been a Van Buren County Sheriff's
 2 deputy?
 3 A Correct.
 4 Q Do you recall how Mr. Burnett was dressed when you saw
 5 him presumably with Deputy Perkins?
 6 A I don't.
 7 Q Do you recall if he was handcuffed?
 8 A I believe he was handcuffed. He had just been arrested
 9 and brought into the jail.
 10 Q So he was wearing civilian clothes.
 11 A Yes.
 12 Q Not a jump suit or a gown or anything of that nature.
 13 A Correct.
 14 Q And do you recall if he was handcuffed or not?
 15 A I don't recall if he was or not at that time.
 16 Q Did you have any conversation with Deputy Perkins when
 17 you first encountered him and Mr. Burnett?
 18 A Not that I recall.
 19 Q Did you have any conversations with Mr. Burnett?
 20 A Not that I recall at that time.
 21 Q Was Mr. Burnett given to your custody at that point or
 22 not?
 23 A Yes.
 24 Q Okay. So Deputy Perkins, for lack of better words, was
 25 handed off to you?

1 A I believe I placed him on the holding bench in that
 2 room.
 3 Q Can you describe the holding bench?
 4 A A steel picnic table is what it resembles.
 5 Q Did it actually look like a picnic table then with a
 6 table area and --
 7 A Yes.
 8 Q (Continuing) -- bench seats so to speak on either side?
 9 A With bolts bolted to the bench seat.
 10 Q Did you handcuff him to the picnic table so to speak?
 11 A Don't recall.
 12 Q So you don't know if he was restrained to the picnic
 13 table or not?
 14 A At that particular moment I don't recall.
 15 Q What did you do other than put him on the, I can't
 16 recall what you actually called it, but on the picnic
 17 table?
 18 A I believe I began running video recorder for other
 19 inmates that may have been in that room or brought down
 20 to that room for court.
 21 Q So that's where the inmates would actually be when they
 22 appear on video?
 23 A Correct, in that room.
 24 Q Okay. So when you say you ran video, you would actually
 25 accompany the inmates while they're being arraigned or

1 answering questions on video?

2 A Yes, I would be physically standing next to them.

3 Q Okay. Did that happen with Mr. Burnett?

4 A Yes.

5 Q Do you recall who the judge was that was addressing Mr.

6 Burnett on video?

7 A Yes.

8 Q Who was that?

9 A Judge Michael McKay.

10 Q Do you recall what happened when Judge McKay was

11 addressing Mr. Burnett on video?

12 A Yes.

13 Q What do you recall happening?

14 A I recall Mr. Burnett arguing with Judge McKay and

15 becoming defensive. And Judge McKay warned Mr. Burnett

16 that he would be held in contempt of court if his

17 behavior continued. His behavior did continue, and

18 Judge McKay sentenced him to I believe a 90 or 93-day

19 contempt of court sentence.

20 Q Okay. When you say he was arguing and becoming

21 defensive, that sounds like a characterization. So what

22 I want to know is, if you recall, do you recall anything

23 that Mr. Burnett actually said to the judge on video?

24 A Yes. Judge McKay was mentioning his -- Mr. Burnett's

25 bond, and I believe Mr. Burnett said something along the

1 A No.

2 Q Had he made -- Had Mr. Burnett made any threats to

3 anyone prior to him sitting down against the wall and

4 looking frustrated?

5 A I believe at that point he made a statement that if he

6 found out that any officer assaulted any inmate in here,

7 that he would assault the officers I believe is how he

8 worded it.

9 Q That doesn't make a lot of sense to me. Had he made any

10 statements before that about having some knowledge of

11 officers assaulting inmates --

12 A No.

13 Q (Continuing) -- anything to that effect?

14 A It didn't make a lot of sense to me, either.

15 Q Did he make a statement as he was seated against the

16 wall?

17 A I believe it's when he was seated against the wall.

18 Q Did you give him any commands up to the point of where

19 he sat down -- sat against the wall?

20 A I don't believe I did at that time.

21 Q So what happened then after he sat down against the

22 wall?

23 A After he sat against the wall I let him just kind of

24 collect himself for a minute. And then I believe I

25 asked him to get up. And he walked over to the bench in

1 lines of he could shove that bond. I don't know if he

2 used any other terminology following after that."

3 Q Well, I mean, did he actually say, you can shove that

4 bond up your ass or anything specific --

5 A I don't recall.

6 Q (Continuing) -- or just shove that bond, if you recall?

7 A I don't recall the exact words he used.

8 Q How did Mr. Burnett react after the judge gave him 90

9 days for contempt?

10 A He appeared to be upset and frustrated.

11 Q How did that manifest itself in the words he used, if at

12 all?

13 A He was upset with the judge and walked away from the

14 video court. Judge McKay requested that he be brought

15 back in front of him. And Judge McKay questioned what

16 he had said. And I don't remember what Mr. Burnett's

17 exact response was.

18 After that hearing concluded, I believe Mr. Burnett

19 went and sat against the wall in that room and I could

20 tell by the look on his face he was frustrated.

21 Q When you say that Mr. Burnett walked away from the video

22 area, do you recall if he was handcuffed at that point?

23 A I don't believe he was.

24 Q And then when he sat down against the wall you say he

25 was frustrated. Was he handcuffed at that point?

1 the booking area, the picnic table, and then I

2 handcuffed him behind his back I believe at that point,

3 and then attached the handcuffs to a bolt that was

4 attached to the picnic table which was designated to

5 secure inmates to that bench.

6 Q Explain that to me. Where was the bolt? I mean I'm

7 envisioning a picnic table with benches on either side.

8 A They were eye bolts attached at I believe either end of

9 the bench, so the handcuffs would be looped through that

10 eye bolt.

11 Q Okay. So that would be either end of the bench that

12 someone would sit on, correct?

13 A Correct.

14 Q All right. So was he seated therefore on the bench with

15 his handcuffs -- with his hands behind his back

16 handcuffed to the bolt?

17 A He was handcuffed behind his back and also secured to

18 that eye bolt via the handcuffs.

19 Q Were his legs restrained in any way?

20 A No.

21 Q Were there any other inmates present when he was

22 handcuffed and bolted to the bench?

23 A I don't recall.

24 Q Were any of the inmates interacting with Mr. Burnett

25 when he did the video arraignment?

1 A **No.**
2 Q So how long was he -- Strike that. What were you doing
3 while Mr. Burnett was handcuffed and bolted to the
4 bench?
5 A **I believe I was finishing the video court that was left**
6 **on the list for that day.**
7 Q So there were several other people that needed to be
8 video arraigned?
9 A **Yes.**
10 Q How long did that take?
11 A **I don't recall.**
12 Q Were there any other corrections officers present?
13 A **At that moment?**
14 Q Yes --
15 A **I don't recall.**
16 Q (Continuing) -- during the video arraignments?
17 A **I don't recall.**
18 Q How long did it take to finish up the video arraignments?
19 A **I don't recall how long it lasted.**
20 Q After you were finished with the video arraignments, what
21 did you do as regards Mr. Burnett?
22 A **I asked Ann Niemi, who works for Van Buren Community**
23 **Mental Health, to evaluate Mr. Burnett based on his**
24 **upset behavior. And I didn't know Mr. Burnett from**
25 **anybody, so I wanted to make sure he got professional**

1 **evaluation.**
2 Q Who is Ann Niemi?
3 A **I'm sorry?**
4 Q Who is Ann Niemi?
5 A **She's retired now. At that time she worked for Van**
6 **Buren Community Mental Health. I don't know what her**
7 **title was.**
8 Q Is that someone you had worked with before for inmates?
9 A **Yes.**
10 Q Are you instructed if you have a concern about someone's
11 mental health to call Ann Niemi in particular?
12 A **Yes. If we have a concern about an inmate's mental**
13 **health, we put in a request to Community Mental Health.**
14 **Ann Niemi was already on site at the facility, so I**
15 **asked her directly.**
16 Q So you already knew that she had been there.
17 A **Yes.**
18 Q And was there.
19 A **Correct.**
20 Q And how long did it take for her to respond?
21 A **I don't recall.**
22 Q What time of the day was this, approximately?
23 A **Anywhere from I believe 11 a.m. to 1 p.m.**
24 Q So you don't recall how long it took Ann Niemi to get
25 there?

1 A **I don't.**
2 Q Anything else happen before Ann Niemi got there that was
3 noteworthy from your perspective?
4 A **Not that I recall.**
5 Q I recall some reference to Mr. Burnett somehow
6 disengaging the handcuffs to the extent he was able to
7 get out of the bolt or maybe get the handcuffs in front
8 of him as opposed to behind him. Did that occur while
9 he was on the bench or was that a different occasion?
10 A **That occurred while he was secured to the bench.**
11 Q Okay. Did you watch him do that, or how did you become
12 aware that had happened?
13 A **I was -- I did not see him do it at that time, I ended**
14 **up seeing it on camera at a later time. I believe**
15 **another officer noticed that his hands were in front of**
16 **him, and I believe that officer was from another agency**
17 **dropping off another inmate.**
18 Q Okay. So did the officer say something to you?
19 A **I believe he did.**
20 Q What did he say?
21 A **I don't remember his exact words, something along the**
22 **lines just to point out that he had manipulated the**
23 **handcuffs.**
24 Q Do you recall who that officer was?
25 A **I don't know his name.**

1 Q After he told you that, what did you do?
2 A **Myself and another officer approached Mr. Burnett and we**
3 **re-secured him by attaching one handcuff to his right**
4 **wrist and attaching it to the eye bolt on the right**
5 **side, and then we took another set of handcuffs,**
6 **attached his left arm to the opposite eye bolts so that**
7 **way his hands were separated.**
8 Q Okay. I'm kind of envisioning him seated then in the
9 middle of the bench with his arms outstretched --
10 A **Correct.**
11 Q (Continuing) -- to each side of the bench (indicating);
12 is that correct?
13 A **Correct.**
14 Q All right. So was the bench maybe not as wide as a
15 normal picnic table bench?
16 A **I don't know how wide the bench was, but the eye bolts**
17 **were bolted at a location it wasn't too far of a**
18 **stretch.**
19 Q So a person of normal size could reach out and have his
20 hands where the eye bolts would be.
21 A **Correct.**
22 Q Okay. Did you ask Mr. Burnett how he was able to get
23 out of the restraint?
24 A **I did ask him.**
25 Q What did he tell you?

1 A **He told me that he loosened the bolt under the picnic**
2 **table.**
3 Q Had you ever seen that happen before?
4 A **No.**
5 Q Were you able to determine later, as you said you
6 watched the video, how he was able to do that?
7 A **Yes.**
8 Q How -- What did the video reveal as to how he was able
9 to do that?
10 A **After he loosened the bolt, his hands were still behind**
11 **his back, but he was able to pull his legs -- both of**
12 **his legs through his arms and bring his hands to the**
13 **front. And when I noticed that, because there was other**
14 **inmates' property lined up across from him, I did not**
15 **want him to have the ability to go through -- rummaging**
16 **through property and obtaining something he shouldn't**
17 **have.**
18 Q So it sounds like he was able to maybe lift up his legs
19 and pull his arms up underneath (indicating)?
20 A **From behind his back.**
21 Q Okay.
22 A **His hands came from behind him to the front of him.**
23 Q All right. So was he seated quietly on the bench with
24 his hands in front of him then?
25 A **Yes.**

1 **placing him in a suicide gown -- anti-suicide gown.**
2 Q Who was the other officer?
3 A **His name is Paul Tessar.**
4 Q So did you then unrestrain Mr. Burnett from the bench to
5 take him somewhere to put him in a suicide gown?
6 A **Yes.**
7 Q You and Officer Tessar did that?
8 A **Officer Tessar and I unhooked him from the bench and**
9 **brought him to another area.**
10 Q Okay. Was he still handcuffed at that point?
11 A **I don't believe he was.**
12 Q So you removed the handcuffs, you removed the restraint
13 from the bolts, and then took him somewhere else?
14 A **I believe we uncuffed his hands from the cuffs that were**
15 **attached to the bolt and walked him to another area.**
16 Q What area did you walk him to?
17 A **It was a room that we designated as our shower changing**
18 **area where inmates would need to be changed into**
19 **uniforms or other items of clothing such as gowns, we**
20 **would take them back to that area.**
21 Q How large was that room?
22 A **Well, it wasn't a room so to speak, it just had a wall**
23 **as a partition. You know, it was a shower, the room**
24 **used to be an old cell.**
25 Q So how large was that area where you just put him?

28

1 Q All right. So how -- After you restrained him by having
2 him sit in the middle of the bench with his arms
3 outstretched and handcuffed and bolted or secured to the
4 bolt, how long was he like that?
5 A **I don't recall.**
6 Q What happened next?
7 A **I believe I had a meeting with Ann Niemi who had just**
8 **evaluated Mr. Burnett and she advised he needed to be**
9 **placed on suicide watch.**
10 Q So were you -- Did Ms. Niemi meet with him while he was
11 bolted to the bench?
12 A **I believe she did.**
13 Q Okay. Are they able to talk privately like that or did
14 people just leave the area?
15 A **I don't know if anybody else was in the room at that**
16 **time, any other inmates and officers. I would have been**
17 **in the room. I don't remember exactly where they met,**
18 **but I'm pretty sure it was right there because I don't**
19 **believe I removed him from the bench.**
20 Q So did she explain why he needed to be on suicide watch?
21 A **I don't recall if she did or not. I just took her**
22 **advice.**
23 Q What did you do then when she indicated to you that he
24 needed to be on suicide watch?
25 A **I requested assistance from another officer to assist me**

30

1 A **Probably 15 feet wide by 10 feet long.**
2 Q Did you direct Mr. Burnett to remove his clothes then?
3 A **Yes.**
4 Q And change into the gown?
5 A **Yes.**
6 Q Were you present while he did that?
7 A **Yes.**
8 Q Did he say anything to you while that was happening?
9 A **I don't recall.**
10 Q Is this gown like a hospital gown or is it some other
11 type of gown?
12 A **It's made out of a very strong fabric that can't be**
13 **ripped or destroyed to be used as an item that somebody**
14 **could use to hang themselves or harm themselves.**
15 Q Is it tied up in the back like medical gowns or how is
16 it --
17 A **It's secured by Velcro.**
18 Q Where is it secured, on the sides or where?
19 A **I believe the gown he wore secured at the shoulders --**
20 **top of the shoulders and the back.**
21 Q So the gown would have two sides and then it would be
22 stuck together in the back through Velcro?
23 A **The gown would have two straps, one on each side of the**
24 **shoulder that would connect, and then it would connect**
25 **in the back sort of like a robe connects.**

<p>31</p> <p>1 Q Did Mr. Burnett, after he put the gown on, complain</p> <p>2 about it in any way while you were in that room with him?</p> <p>3 A I don't recall.</p> <p>4 Q Did he put the gown on without incident basically?</p> <p>5 A Yes.</p> <p>6 Q Okay. And after he did that, what did you do with him?</p> <p>7 A We handcuffed him behind his back and then we began to</p> <p>8 escort him to another cell in general population on the</p> <p>9 second floor.</p> <p>10 Q When you say we, that would be you and Officer Tessar?</p> <p>11 A Correct.</p> <p>12 Q And did anything happen while you and Officer Tessar</p> <p>13 moved him to a cell on the second floor?</p> <p>14 A Yes. As we were exiting the -- on our way to the door</p> <p>15 to exit the cell, Mr. Burnett pulled away from me and</p> <p>16 began trying to run in the opposite direction. So then</p> <p>17 I put Mr. Burnett on the floor. That's when -- when he</p> <p>18 was on the ground, and then he had a laceration to his</p> <p>19 head, so we began applying immediate first aid.</p> <p>20 Q When is -- Where was this place where you say Mr.</p> <p>21 Burnett tried to walk away or move away?</p> <p>22 A The same room that he had been in this entire time.</p> <p>23 Q Where he changed into the gown?</p> <p>24 A Where he had actually been brought in from being</p> <p>25 arrested.</p>	<p>33</p> <p>1 Q Did he say anything about his gown before he started to</p> <p>2 move away?</p> <p>3 A Not that I recall.</p> <p>4 Q Did he say anything about his penis being exposed?</p> <p>5 A Not that I recall.</p> <p>6 Q Where was Officer Tessar when Mr. Burnett started to</p> <p>7 move away from you?</p> <p>8 A He was standing in front of us getting ready to open the</p> <p>9 door.</p> <p>10 Q How far in front of you was he?</p> <p>11 A Probably three or four feet.</p> <p>12 Q So it sounds like Mr. Burnett, when he tried to move</p> <p>13 away, went in the direction away from where Officer</p> <p>14 Tessar was.</p> <p>15 A Yes.</p> <p>16 Q And he -- But he didn't say anything as he started to</p> <p>17 move away?</p> <p>18 A Not that I recall.</p> <p>19 Q Was Mr. Burnett shackled around his legs or ankles at</p> <p>20 that point?</p> <p>21 A No.</p> <p>22 Q So he just had handcuffs on.</p> <p>23 A Correct.</p> <p>24 Q Did he push you or shove you as he tried to move away?</p> <p>25 A No.</p>
<p>32</p> <p>1 Q So was it the booking area?</p> <p>2 A Yes.</p> <p>3 Q Okay. So he was removed from the area where he had</p> <p>4 changed into the gown and brought back into the booking</p> <p>5 area, correct?</p> <p>6 A Both areas are in the same room, it's just a wall that</p> <p>7 divides -- half a wall that divided it.</p> <p>8 Q Okay. So was he removed from the wall partitioned area</p> <p>9 back into the open booking area?</p> <p>10 A Yes. That was the only way to exit that room.</p> <p>11 Q Was Officer Tessar still with you at the time?</p> <p>12 A Yes.</p> <p>13 Q Was anyone else around when you say he tried to move</p> <p>14 away from you?</p> <p>15 A I believe Ann Niemi from Mental Health was in that room.</p> <p>16 Q Did you have any conversations with Mr. Burnett before</p> <p>17 he tried to move away?</p> <p>18 A I believe I told him he was going to another cell on</p> <p>19 suicide watch I believe I told him, I don't remember my</p> <p>20 exact words. And then he proceeded to pull away from me</p> <p>21 and go in the opposite direction, back towards the</p> <p>22 property.</p> <p>23 Q Back towards where?</p> <p>24 A Towards where the inmates' property were and the bench</p> <p>25 he had been sitting on.</p>	<p>34</p> <p>1 Q As you were escorting him, did you have your hands on</p> <p>2 him in any way?</p> <p>3 A Yes.</p> <p>4 Q Where did you have your hands on him?</p> <p>5 A I believe my right arm was holding his left arm or the</p> <p>6 handcuffs.</p> <p>7 Q As he moved away, was he able to disengage from you?</p> <p>8 A Yes.</p> <p>9 Q How did he do that?</p> <p>10 A He began to slip from my grip.</p> <p>11 Q Did he actually get out of your grip?</p> <p>12 A I don't remember.</p> <p>13 Q Did he run away or walk?</p> <p>14 A To me it appeared he was trying to run.</p> <p>15 Q How far did he get?</p> <p>16 A Not very far.</p> <p>17 Q I mean were you able to, after he disengaged from you,</p> <p>18 reach out and grab him?</p> <p>19 A Yes, I was able to re-secure my grip.</p> <p>20 Q Where did you grip him?</p> <p>21 A I believe his left arm.</p> <p>22 Q Did you say anything to him at that point?</p> <p>23 A I don't recall.</p> <p>24 Q I mean did you give him any commands like stop moving or</p> <p>25 stand still or anything of that nature?</p>

1 A I don't recall.
 2 Q Did you try to take him against the wall?
 3 A I don't understand the question.
 4 Q Well instead of putting him to the ground, did you try
 5 to just move him up against a wall?
 6 A No. There was no wall in close proximity.
 7 Q How far were you -- How far away from you -- from the
 8 nearest wall were you?
 9 A Probably six, or seven, maybe eight feet.
 10 Q Did you tell him you were going to take him down?
 11 A I don't believe so.
 12 Q Why did you take him down at that point?
 13 A Because of his attempt to get out of my control, I needed
 14 to find a better way to secure him.
 15 Q So what did you do? How did you take him down?
 16 A I grabbed his arm and turned him across my body and
 17 placed him on the floor.
 18 Q His handcuffs -- His arms were handcuffed behind his
 19 back at that point, correct?
 20 A Yes.
 21 Q Did you lift him up?
 22 A No.
 23 Q Did you stick a leg out or whatever to, you know, cause
 24 him to move forward towards the ground?
 25 A I don't recall. I don't believe I did.

1 Q Did you turn him in any way, twist, as you were taking
 2 him down?
 3 A I don't recall. His body may have turned when I pulled
 4 him toward me.
 5 Q Did you trip him in any way; in other words, put your
 6 leg in front of his legs where his legs would fall?
 7 A I don't recall.
 8 Q Did you do anything to try to ensure that his head would
 9 not hit the ground when you took him down?
 10 A I don't recall.
 11 Q What part of his body hit the ground first?
 12 A I don't recall.
 13 Q Did you hear a cracking sound when his body hit the
 14 ground?
 15 A Not that I recall.
 16 Q Did you hear any sound that he made when presumably his
 17 head hit the ground?
 18 A I believe he made a groan.
 19 Q But you didn't hear any cracking sound of his head
 20 hitting the ground?
 21 MS. HALL: Objection, answered. You can go ahead.
 22 THE WITNESS: I'm sorry?
 23 MS. HALL: I just objected, answered. You already
 24 answered the question, but go ahead and answer again.
 25

1 BY THE WITNESS:
 2 A Can you repeat the question?
 3 BY MR. PIPER:
 4 Q Yeah. Did you hear any cracking sound as his head hit
 5 the ground?
 6 A Not that I recall.
 7 Q Did you see what part of his body hit the ground first?
 8 A I did not see which part of his body hit the ground
 9 first, no.
 10 Q Did you move him from right to left?
 11 A No.
 12 Q Describe which way you pulled him as you took him down.
 13 A I pulled him this way (indicating), to my left.
 14 Q Yeah. That would be -- I mean, from my perspective
 15 that's moving from right to left.
 16 A Okay.
 17 Q So from your right side --
 18 A He was to my -- He was directly in front of me, I pulled
 19 him this way (indicating), to my left.
 20 Q Did you grab both his arms or did you grab his body as
 21 you did that?
 22 A I believe I only grabbed his left arm.
 23 Q Okay. So did you have any part of his body or did you
 24 just grab his left arm?
 25 A I believe just his left arm.

1 Q And when you took him down, did you land on him?
 2 A I don't believe I did.
 3 Q Did you -- Did you go off your feet?
 4 A Yes.
 5 Q Describe that.
 6 A I knelt down on my knees as he continued to shake around
 7 or move his body.
 8 Q All right. That probably wasn't the best question. As
 9 you took him down, did you go from a standing position
 10 to another position?
 11 A Yes.
 12 Q What position did you go from?
 13 A To a kneeling position.
 14 Q So as you took him down you went from a standing position
 15 to a kneeling position?
 16 A Yes.
 17 Q Describe the ground for me. Is it concrete or carpet?
 18 A I believe it was a form of tile.
 19 Q Other than hearing him groaning after you took him down,
 20 did you hear him say anything?
 21 A No.
 22 Q Did you see blood immediately?
 23 A Yes.
 24 Q Where was the blood coming from?
 25 A Appeared to be coming from his head.

1 Q Which side of his head?

2 A **I don't recall.**

3 Q Did you see blood spurting from his head?

4 A **I don't recall seeing blood spurting from his head.**

5 Q Did you see a pool of blood form immediately around the

6 area of his injury?

7 A **I saw some blood around his head. I don't know how much**

8 **it was.**

9 Q Okay. Did you ever take photos of the blood that was

10 around his head at any time?

11 A **No.**

12 Q When you say he hit the ground he groaned, did he do

13 anything else at that point?

14 A **He was moving his body around.**

15 Q Describe that.

16 A **He was kicking his legs around and he would still not**

17 **hold still.**

18 Q Were you giving him any commands?

19 A **I don't recall.**

20 Q Was anyone else giving him any commands?

21 A **I don't recall.**

22 Q Did Officer Tessar approach after you had taken Mr.

23 Burnett down?

24 A **Yes.**

25 Q What did he do?

1 A **I believe he began rendering basic first aid.**

2 Q What did he do?

3 A **I believe he was applying pressure to his head wound.**

4 Q With what?

5 A **I believe it was a paper towel.**

6 Q What was Ms. Niemi doing?

7 A **She was standing behind the booking desk and then she**

8 **exited the room.**

9 Q She left?

10 A **She did.**

11 Q Did she say anything before she left?

12 A **I don't believe she did.**

13 Q Was anyone else present?

14 A **We were later joined -- shortly thereafter joined by**

15 **Officer Patrick Quinn, Lieutenant Manny Delarosa, and**

16 **then Roslyn Hickmott, jail medical staff.**

17 Q Did Ms. Niemi say anything as she left?

18 A **I don't recall.**

19 Q Do you recall from talking to anyone else whether Ms.

20 Niemi had reported anything that had happened?

21 A **I don't know.**

22 Q How did the other individuals who showed up later get

23 informed; if you know?

24 A **I believe --**

25 Q Their presence would be necessary.

1 A **I believe either myself or Officer Tessar called for**

2 **assistance on the jail radio.**

3 Q Was the jail radio on your body or did you have to lift

4 up a phone or something?

5 A **It was jail radios that we carry on our person.**

6 Q What did you say?

7 A **I don't recall exactly what I said, but it would have**

8 **been requesting assistance in that cell -- or that room.**

9 Q Did you ever think about asking Officer Tessar or anyone

10 else for assistance before you took Mr. Burnett to the

11 ground?

12 A **Did I ever think about it?**

13 Q Yes.

14 A **No.**

15 Q Did you ever ask for assistance before taking Mr.

16 Burnett to the ground?

17 A **No, I did not. I felt I needed to gain control of him**

18 **as soon as possible since he was heading to the other**

19 **side of the room by the inmate property.**

20 Q How big is Mr. Burnett, to your recollection?

21 A **I don't know.**

22 Q Do you recall whether Mr. Burnett stopped moving as he

23 was on the ground?

24 A **Mr. Burnett continued to move when he went to the**

25 **ground.**

1 Q Other than moving his legs, was he moving any other part

2 of his body?

3 A **He was moving his legs and his torso was rocking back**

4 **and forth. I took it as an attempt to try to get back**

5 **up.**

6 Q Did you prevent him from getting back up?

7 A **Officer Tessar and myself continued to hold Mr. Burnett.**

8 Q How did you hold him?

9 A **I believe I held him at his legs.**

10 Q Are you denying then that Mr. Burnett lost consciousness?

11 A **I don't know if he did or not.**

12 Q Well, if he was moving, how could have he lost

13 consciousness?

14 A **I did not imply that he lost consciousness.**

15 Q Well, was there any time that he had stopped moving?

16 A **Not that I recall.**

17 Q How long was Mr. Burnett lying on the tile in the area?

18 A **I don't recall how long he was there.**

19 Q Other than Officer Tessar applying pressure to the head

20 wound with a towel, is there any first aid, so to speak,

21 that you or Officer Tessar gave Mr. Burnett?

22 A **I believe Officer Tessar and Lieutenant Delarosa**

23 **continued to apply pressure to his wound. And then when**

24 **Roslyn Hickmott entered the room from the medical staff,**

25 **we turned over all first aid care to her.**

1 Q How long was it that it was just you and Officer Tessar
2 with Mr. Burnett before Delarosa entered the room?
3 A **I believe it was a matter of seconds or short minutes.**
4 Q And then how long was it after Delarosa entered the room
5 that Hickmott entered the room?
6 A **I believe -- From the time Mr. Burnett went to the floor,**
7 **I believe Roslyn Hickmott entered the room six minutes**
8 **later, according to video.**
9 Q Is that consistent with your recollection or you just
10 know that from watching the video?
11 A **It's based on my recollection from watching the video.**
12 Q From watching the video were you able to determine how
13 long it was before Delarosa entered the room?
14 A **I did not measure that.**
15 Q Before Hickmott entered the room, was Mr. Burnett's
16 wound still bleeding?
17 A **I don't know.**
18 Q Did you ever apply pressure to the wound?
19 A **I don't believe I personally did, the other officers**
20 **did.**
21 Q So Tessar and Delarosa?
22 A **Tessar, Delarosa and possibly Quinn.**
23 Q Why didn't you do it?
24 A **'Cause somebody else was already doing it.**
25 Q Do you recall how large the pool of blood was around Mr.

1 Q Do you recall if Mr. Burnett was still bleeding from the
2 head as he was seated on the floor?
3 A **I don't recall.**
4 Q How long did Hickmott attend to Mr. Burnett?
5 A **I don't know.**
6 Q So who took Mr. Burnett to the hospital?
7 A **Deputy Dan Perkins.**
8 Q So you didn't accompany him?
9 A **No.**
10 Q So Perkins was the one who originally had brought Mr.
11 Burnett to the facility.
12 A **Correct.**
13 Q And he was still around?
14 A **Yes.**
15 Q Okay. Why was Perkins selected as the one to take him
16 to the hospital?
17 A **I believe when we requested that a deputy transport him,**
18 **I believe he was available and accepted the request.**
19 Q Would it have been prohibited for you to do that or not?
20 A **I don't believe it would have been prohibited.**
21 Q Who selected Perkins to take him to the hospital?
22 A **I believe Perkins volunteered when the request went out.**
23 Q Do you recall anything that Mr. Burnett said from the
24 time he was taken down up to the point where he left to
25 go to the hospital?

1 Burnett's head before Hickmott entered the room?
2 A **I don't recall.**
3 Q After Hickmott entered the room, what happened?
4 A **She took over first aid, And then either myself or**
5 **Lieutenant Delarosa, I believe from Roslyn Hickmott's**
6 **advice, requested a deputy take Mr. Burnett over to the**
7 **hospital to get clearance -- to be evaluated.**
8 Q What -- Strike that. Did you see anything that Hickmott
9 did to Mr. Burnett?
10 A **I don't recall what she did to him.**
11 Q Did you see him kneeling around his body at any point?
12 A **Mr. Burnett was sitting in an upright position at this**
13 **point and Roslyn Hickmott was, I believe, crouched down**
14 **next to him.**
15 Q How did he get into an upright position?
16 A **I believe officers helped him sit up.**
17 Q Do you recall before officers helped him sit up if Mr.
18 Burnett had said anything from the time he was taken to
19 the ground -- to the floor up to the point where he was
20 sat up?
21 A **I don't recall if he said anything.**
22 Q And you say you don't recall what Hickmott did as he was
23 seated on the floor?
24 A **I don't recall, other than she provided basic first aid.**
25 **I don't know what her exact duties that she did were.**

1 A **I don't recall.**
2 Q Did you notice any other injuries from Mr. Burnett
3 before he was taken to the hospital other than the wound
4 on his head?
5 A **No.**
6 Q Did you notice any bruising?
7 A **No.**
8 Q When did you next see Mr. Burnett?
9 A **I don't remember.**
10 Q Did he come back to the jail at some point?
11 A **I believe he did.**
12 Q Did he come back that day?
13 A **I don't recall.**
14 Q The next time you saw Mr. Burnett, how did he look?
15 A **I don't remember when the next time that I saw him was.**
16 Q But you did see him again though, right?
17 A **I don't remember. I've seen him after that, he's been**
18 **in jail.**
19 Q Yeah. But did you see him within a week after you would
20 have taken him down in the holding area?
21 A **I don't remember.**
22 Q Did you ever see him while he was -- had some visible
23 injuries on his face such as bruising or anything of
24 that nature?
25 A **Not that I recall.**

1 Q Did you ever see him with stitches on his head?
 2 A **Not that I recall.**
 3 Q When was the next time you actually recall seeing Mr.
 4 Burnett?
 5 A **The only time I can accurately say that I've seen him**
 6 **since then or after that incident was at a separate**
 7 **incarceration, 'cause he was in our jail within the last**
 8 **six to eight months I believe for a separate arrest.**
 9 Q Do you recall what he was in jail for then?
 10 A **I believe resisting arrest and possibly home invasion.**
 11 Q Did you ever talk to him during that period of
 12 incarceration?
 13 A **Not that I recall.**
 14 Q So he didn't ever say anything to you about the incident
 15 on January 12th?
 16 A **No, he did not.**
 17 Q Did you attempt to engage him at any time in
 18 conversation?
 19 A **No.**
 20 Q When you saw him then, did he still have any injuries on
 21 his face?
 22 A **I did not see any kind of injuries.**
 23 Q Did you notice a scar on his head from where he had been
 24 wounded when you took him down?
 25 A **No.**

1 Q Do you recall how large the area of blood was?
 2 A **I don't.**
 3 Q Did you take any photos of it?
 4 A **No.**
 5 Q Did anyone who you talked to about it ever indicate,
 6 yeah, I was the one who cleaned it up, or I cleaned it
 7 up, anything of that nature?
 8 A **Not that I recall.**
 9 Q Did you get any blood on your uniform or your body as a
 10 result of taking Mr. Burnett down and its aftermath?
 11 A **No.**
 12 Q Are you okay?
 13 A **Yeah, I'm okay.**
 14 Q Okay. Did you ever hear any comments from any of the
 15 inmates in the jail, either at the time he was taken
 16 down or afterwards, as he was laying on the floor?
 17 A **No.**
 18 Q Were any inmates in an area where they would have been
 19 able to see where Mr. Burnett was on the floor?
 20 A **No. I believe Mr. Burnett was the only inmate in that**
 21 **room at the time.**
 22 Q So the people who had been arraigned were already out of
 23 the area?
 24 A **Correct.**
 25 Q Did you hear any comments by any of the inmates

48

1 Q Did you ever notice a scar on his head from that?
 2 A **Not that I recall.**
 3 Q Did you ever attempt to talk to Ann Niemi about what she
 4 had seen, if anything, as you took him down?
 5 A **I don't recall having any conversations with Ann Niemi**
 6 **about that specific incident.**
 7 Q Did you attempt to talk to Officer Tessar at any time
 8 about what he had seen, if anything, as you were taking
 9 him down?
 10 A **Not that I recall.**
 11 Q Do you -- Based on where Tessar was and the direction he
 12 was facing at the time you took him down, do you believe
 13 that Officer Tessar would have witnessed what you did?
 14 A **I don't know if he did or not based on where he was at.**
 15 Q Okay. Did you ever ask him?
 16 A **I don't think so.**
 17 Q After Mr. Burnett was removed from the area where he had
 18 been lying on the floor after you had taken him down,
 19 did you participate in cleaning the area in any way?
 20 A **I don't remember if I did or not. I don't believe I**
 21 **did.**
 22 Q Do you recall after Mr. Tessar -- excuse me, Mr. Burnett
 23 was removed from the area, a pool of blood being on the
 24 floor?
 25 A **There was blood on the floor.**

50

1 later --
 2 A **No.**
 3 Q (Continuing) -- about the incident?
 4 (Deposition Exhibit No. 1 marked)
 5 BY MR. PIPER:
 6 Q I'm showing you what's been marked as Exhibit 1 and ask
 7 if you can identify this form.
 8 A **This is a Van Buren County Sheriff's Office Use of Force**
 9 **Report form.**
 10 Q Who prepared this?
 11 A **I did.**
 12 Q What was the purpose of preparing this?
 13 A **Because I was involved in a use of force situation with**
 14 **Mr. Burnett.**
 15 Q Okay. When you prepared this, there's something typed
 16 there that says, "Subject requested to speak to mental
 17 health. Subject possibly under the influence of drugs".
 18 Why did you make the comment about drugs?
 19 A **I didn't know Mr. Burnett, so I didn't know if he had**
 20 **underlying mental health issues or if he was upset with**
 21 **the courts and judges due to mental health issues or due**
 22 **to possible drug usage.**
 23 Q Okay. And did he ever say anything about being under
 24 the influence of drugs?
 25 A **Not that I recall.**

1 Q Did you ever ask him if he was under the influence of
2 drugs?
3 A **I don't recall.**
4 Q There's a comment near the top where it says, did the
5 subject complain of injuries? And it says, yes. Then
6 it says, "Stated his head and neck hurt and numbness on
7 face". Did he actually say that?
8 A **I don't recall him saying that.**
9 Q Did you write that?
10 A **I believe I did.**
11 Q Why did you write it if you don't recall him saying
12 that?
13 A **It was over two years ago, I don't remember if he made a**
14 **comment at that point about his head or neck hurting or**
15 **numbness on his face.**
16 Q Would you have put that down if he had not said that?
17 A **No.**
18 Q So do you believe he must have said that then?
19 A **He may have.**
20 Q Well, would you have put it down if someone else had
21 reported that to you, that Burnett had said that to
22 them, even if you hadn't witnessed it?
23 A **No. I don't know at what point he said that is what I'm**
24 **saying.**
25 Q Okay. Why did -- It said, how did the injuries occur?

1 And were you the one who wrote, "Subject's head struck
2 the floor when placed on the floor"?
3 A **Yes.**
4 Q Why did you use the word placed?
5 A **Because I placed him on the floor. I don't know what**
6 **other word I should have used.**
7 Q Did you -- You didn't think the word placed was
8 misleading?
9 A **No.**
10 Q There's a block that says, photographs of injuries, and
11 then it's checked no. Why didn't you take any
12 photographs of the injuries?
13 A **It's not commonplace for us in the jail to take photos**
14 **of inmates, other than when they're booked in.**
15 (Deposition Exhibit No. 2 marked)
16 BY MR. PIPER:
17 Q By the way, did you request any charges against Mr.
18 Burnett as a result of the encounter with you?
19 A **No.**
20 Q Why didn't you request charges against him?
21 A **I didn't feel it was necessary.**
22 Q Why didn't you feel it was necessary?
23 A **I don't know, I just didn't.**
24 Q I'm showing you what's been marked as Exhibit 2 and ask
25 if you can identify this for me.

1 A **This is my use of force narrative report.**
2 Q And what is the difference between this and what we've
3 marked as Exhibit 1?
4 A **We are required to complete both. The one I'm holding**
5 **now, Exhibit 2, is where we type our narrative. The**
6 **other report is more of a fill-in-the-blank type form.**
7 Q In this report about two fifths of the way down it
8 states, "I could hear Inmate Burnett yelling at C/O
9 Tessar and implying that he would assault an officer.
10 Inmate Burnett was stating that he was about to freak
11 out". Do you recall him actually saying that right now
12 or not?
13 A **After reading the report, yes, I remember writing this.**
14 Q Do you have a specific recollection of him saying that
15 right now or --
16 A **Not right now.**
17 Q You make reference about halfway down to a "Kalamazoo
18 deputy was in the room with C/O Tessar and me". And
19 then the three of you secured Mr. Burnett's left hand to
20 one handcuff while bolting him to the bench. Do you
21 recall who that deputy was?
22 A **I don't remember his name.**
23 Q You indicate that he said he wanted to see mental
24 health. Do you recall that specifically at this point
25 or no?

1 A **After reading it I do.**
2 Q Okay. You also wrote that he stated "that he would
3 punch another inmate in the face when he goes to general
4 housing". Do you recall him saying that at this point?
5 A **I don't recall him making that statement, but I wrote**
6 **this.**
7 Q Okay. All right. Earlier in the deposition I asked you
8 if he had complained about his penis being exposed or
9 words to that effect. And you write here that "the
10 Velcro on Inmate Burnett's anti-suicide gown was not
11 securing on one side and he complained about this". Do
12 you recall that specifically as we go through this?
13 A **No, I don't.**
14 Q Do you recall -- I'm trying to envision that. How was
15 it not secured on one side, if you remember?
16 A **I don't remember.**
17 Q Do you recall him -- if it wasn't secured on one side,
18 if his penis was visible?
19 A **No, I don't recall that happening.**
20 Q Do you ever recall him making reference to his junk in
21 reference to his penis?
22 A **No.**
23 Q Do you recall the size of the laceration he had on his
24 forehead?
25 A **I don't.**

1 Q At the bottom it says, "Deputy Perkins and C/O Tessar
2 transported Inmate Burnett to Bronson LakeView". Do you
3 recall Tessar actually going or not?
4 A **I don't physically recall if he went with them to the
5 hospital or not.**
6 Q Did you ever see any medical reports regarding Mr.
7 Burnett's injury?
8 A **I believe I did. Either that or I was told by medical
9 staff.**
10 (Deposition Exhibit No. 3 marked)
11 BY MR. PIPER:
12 Q I'm showing you what's been marked as Exhibit 3 and ask
13 if you've ever seen this document before.
14 A **I don't know if I've seen this or not.**
15 Q Did you ever talk to any medical staff, other than
16 Hickmott, about what had happened?
17 A **I don't specifically remember.**
18 Q Do you ever remember talking to anyone, either at the
19 hospital or on the phone from someone from the hospital,
20 about Mr. Burnett's injuries?
21 A **No, I don't remember doing that.**
22 (Deposition Exhibit No. 4 marked)
23 BY MR. PIPER:
24 Q Showing you what's been marked now as Exhibit 4. Have
25 you ever seen that document before?

1 A **I don't remember seeing this specific document before.**
2 Q Do you know whose writing it is on the document?
3 A **Well, it's signed by Roslyn Hickmott, I believe.**
4 Q Is she an employee of the Van Buren County Sheriff's
5 Department?
6 A **No.**
7 Q Who is she employed by?
8 A **At that time she was employed by the Van Buren County
9 Health Department. She's currently employed by ACH
10 Correctional Medical.**
11 Q What's ACA Correctional Medical?
12 A **It's a company that provides our medical staffing here
13 at the jail.**
14 Q So does she actually work in the jail then?
15 A **Yes.**
16 Q Do you see her most every day?
17 A **Every couple days I see her. I don't know what her
18 schedule is.**
19 Q This document, Exhibit 4 indicates, "laceration left
20 side of forehead, approximately one-and-a-half to two
21 inches". Do you see that?
22 A **Yes.**
23 Q Is that consistent with your recollection as to the size
24 of the laceration?
25 A **I don't remember what the size of the laceration was.**

1 Q This document indicates that Mr. Burnett indicated he
2 couldn't remember what happened. Do you recall Mr.
3 Burnett ever saying that?
4 A **No.**
5 Q It also says, "Officers state no LOC", referring to loss
6 of consciousness. Do you recall ever saying that to
7 Miss Hickmott?
8 A **I don't recall saying that to her.**
9 Q Do you recall any of the officers saying that?
10 A **No.**
11 Q Do you recall Mr. Burnett complaining of being numb
12 feeling on the side of his face, on the left side of
13 face?
14 A **I don't recall.**
15 (Deposition Exhibit No. 5 marked)
16 BY MR. PIPER:
17 Q I'm showing you what's been marked as Exhibit 5. Have
18 you seen this document before?
19 A **I don't recall ever seeing this.**
20 Q Do you recognize whose writing is on the document?
21 A **No.**
22 Q Did you recognize the signature at the bottom?
23 A **No.**
24 (Deposition Exhibit No. 6 marked)
25

1 BY MR. PIPER:
2 Q Now I'm showing you what's been marked as Exhibit 6.
3 I'm a little confused by some of these policies, so can
4 you identify this for us?
5 A **This appears to be Van Buren County Sheriff's Department
6 Non-Lethal Policy.**
7 Q Do you know if this was effective for corrections
8 officers as of January 12 of 2018?
9 A **I believe it was.**
10 Q Were you required to be familiar with those policies?
11 A **Yes.**
12 (Deposition Exhibit No. 7 marked)
13 BY MR. PIPER:
14 Q I'm showing you what's been marked as Exhibit 7 and ask
15 if you can identify that document for us.
16 A **It appears to be a Van Buren County Sheriff's Office Use
17 of Force Policy.**
18 Q Is that a different policy from the one I previously
19 marked or is that the same one?
20 A **I'm not sure.**
21 Q Okay. Are you aware of different Use of Force policies
22 that were in effect on January 12 of 2018?
23 A **I believe there's a Departmental Use of Force Policy and
24 a Jail Use of Force Policy.**
25 Q Which one is No. 7?

1 A I believe that is a jail one.

2 Q All right. And was Exhibit 6 the Department policy?

3 A I believe so. I'm not a hundred percent sure.

4 Q Okay.

5 (Deposition Exhibit No. 8 marked)

6 BY MR. PIPER:

7 Q I'm showing you what's been marked as Exhibit 8 and ask

8 if you've seen this before.

9 A Yes.

10 Q And what is this?

11 A Van Buren County Sheriff's Office Jail Policy, Use of

12 Non-Lethal Force.

13 Q Okay. Is that a different policy than the Use of Force

14 Policy?

15 A I'm not sure.

16 Q So let me ask you this. Was there a jail policy for use

17 of force and another policy for use of non-lethal force?

18 A There may have been.

19 Q Okay. The policy numbers seem to be different so --

20 Anyway, do you recall seeing several Use of Force

21 policies for the jail that you've reviewed?

22 A There's been a couple of them, yes.

23 (Deposition Exhibit No. 9 marked)

24 BY MR. PIPER:

25 Q I'm showing you what's been marked as Exhibit 9 and I'd

1 ask if you've ever seen this document before.

2 A No, I have not.

3 Q Have you ever seen Mr. Burnett looking like that, in any

4 of those photos?

5 A I don't recall.

6 Q Okay. For example, the first one on the upper left

7 appears to show a scar on the upper left side of his

8 forehead. Do you see that?

9 A I see the picture you're talking about with the spot on

10 the forehead.

11 Q Yeah. Have you ever seen him with a spot like that on

12 his forehead?

13 A Not that I recall.

14 Q And the one to the right on the top appears to show a

15 blackening around his left eye. Have you ever seen Mr.

16 Burnett looking like that?

17 A No, not that I recall.

18 MR. PIPER: All right. I appreciate it. I have no

19 further questions.

20 MS. HALL: Thank you.

21 (Whereupon deposition concluded at 2:15 p.m.)

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